

REMARKS

Interview Summary

Applicants appreciate Examiner Hicks' having conducted a telephonic interview with Applicants' Attorneys Jeffrey Snow and Karen Sinclair on Wednesday, February 10, 2010. The Helms reference and the pending claims were discussed during the interview.

U.S. Patent No. 4,359,169 to Helms

In the final Office action, U.S. Patent No. 4,359,169 to Helms was cited in each new rejection under 35 U.S.C § 103. Applicants respectfully submit that U.S. Patent No. 4,359,169 is not a new disclosure. U.S. Patent No. 4,359,169 to Helms corresponds to UK Patent Application No. GB 2 108 464 to Helms, which was previously cited in this application at page 5 of the description, in the International Search Report prepared in the International Phase of this application, and again in an Information Disclosure Statement Form PTO-1449 filed with the national phase entry of this application on November 22, 2000. Further, UK Patent Application No. GB 2 108 464 to Helms was considered and initialed in this application on August 9, 2002. Accordingly, Applicants respectfully submit that U.S. Patent No. 4,359,169 to Helms is not a new disclosure and respectfully request that the finality of the January 11, 2010 Office action be removed.

Rejection Under 35 U.S.C. § 103: Helms in view of Graboski and Flanagan

In the Office action, claims 12, 16, and 17 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,359,169 to Helms ("Helms") in view of U.S. Patent No. 6,117,506 to Graboski *et al.* ("Graboski") and further in view of U.S. Patent No. 6,082,568 to Flanagan ("Flanagan"). Applicants respectfully traverse the rejection and submit that claims 12, 16, and 17 are patentable over the cited references.

Applicants' claim 12 recites a process for bottling a fluid in which a fluid-filled extrusion blow moulded bottle is fitted and then induction heat sealed with a neck and cap assembly. The neck and cap assembly includes a foil that is bonded to and completely seals the base portion of

the neck and cap assembly. After the neck and cap assembly is fitted to the bottle, the fitted bottle and neck and cap assembly are induction heat sealed to completely seal the bottle body.

Applicants' claim 16 recites a thin walled plastic bottle assembly. The bottle assembly includes a bottle-body, a neck assembly, a tearable sealing foil, and a cap. The tearable sealing foil is bonded to and completely seals the bottom portion of the neck assembly and later, after the bottle-body has been filled with a fluid, is sealed to the open mouth of the bottle-body.

Applicants' claim 17 recites a process for preparing a thin walled plastic body assembly. The process includes the steps of extrusion-blow-moulding a bottle-body, filling the bottle-body with a fluid, fitting a neck-and-cap-assembly including a foil that is completely sealed and bonded to the base of the neck-and-cap-assembly to the bottle-body, and then induction heat sealing the foil to the bottle-body.

Helms teaches a membrane having a thin layer of metallic foil on each side. During assembly, the membrane is loosely placed in position between a container body and a closure. Following placement of the membrane between the container body and the closure, Helms' foil membrane is heat welded simultaneously to each of the container and the closure. In contrast to Applicants' claimed process, Helms does not teach or suggest that its membrane is bonded to or sealed to its closure prior to being fitted to its container. Instead, Helms teaches a membrane M that is loosely placed in position between a container 14 and a closure 20. Helms' membrane M is then induction heat sealed to simultaneously seal the membrane M to the container body 14 and to the closure 20. Col. 2, lines 49-62. Accordingly, Helms' membrane M is not bonded to the closure 20 prior to the closure 20 being fitted to the container 14.

Graboski does not cure the deficiencies of the teachings of Helms. Graboski teaches an extrusion blow molded bottle containing three integrally molded layers of synthetic resin. Graboski does not teach or suggest a neck and cap assembly that is pre-sealed with a foil. Additionally, Graboski does not teach or suggest a foil that is sealed to both a cap assembly and a bottle following an induction heat sealing step.

Flanagan does not cure the deficiencies of the teachings of Helms or Graboski. Flanagan teaches a container cap having a removable liner with a tear member, which tear member can be pulled to remove the liner from the cap. However, in contrast to Applicants' claimed process, Flanagan does not teach or suggest induction heat sealing a liner to both a container and a cap to

completely seal both the container and the cap. Instead, Flanagan teaches that “[t]he liner 8 may be adhered to the rim 17 of the container, or to the underside of the base cap 3.” Col. 5, lines 43-44; *see also* col. 4, lines 34-40. According to one embodiment, Flanagan’s liner is secured to the cap. Col. 8, lines 14-30. According to another embodiment, Flanagan’s liner is secured to the container with an adhesive. Col. 8, lines 31-41.

Accordingly, for at least the reasons given above, Applicants submit that independent claims 12, 16, and 17 are patentable over Helms, Graboski and Flanagan, either alone or in combination.

Rejection Under 35 U.S.C. § 103: Helms in view of Graboski, Flanagan and Kitahora

In the Office action, claim 13 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Helms in view of Graboski and Flanagan, and further in view of U.S. Patent No. 6,076,334 to Kitahora (“Kitahora”). Applicants respectfully traverse the rejection and submit that claim 13 is patentable over the cited references.

Helms, Graboski and Flanagan were discussed above with respect to independent claim 12. Applicants submit that Kitahora does not cure the deficiencies of the teachings of Helms, Graboski or Flanagan. Kitahora teaches a method for sterile packaging of beverages in plastic containers. However, in contrast to Applicants’ claimed process, Kitahora does not teach or suggest a neck and cap assembly that is pre-sealed with a foil. Additionally, Kitahora does not teach or suggest a foil that is sealed to both a cap assembly and a bottle following an induction heat sealing step.

Accordingly, for at least the reasons given above, Applicants submit that claim 13 is patentable over Helms, Graboski, Flanagan and Kitahora, either alone or in combination.

Rejection Under 35 U.S.C. § 103: Helms in view of Graboski, Flanagan and Kauffman

In the Office action, claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Helms in view of Graboski and Flanagan, and further in view of U.S. Patent No. 4,141,680 to Kauffman *et al.* (“Kauffman”). Applicants respectfully submit that claims 14 and 15 are patentable over the cited references.

Helms, Graboski and Flanagan were discussed above with respect to independent claim 12. Applicants submit that Kauffman does not cure the deficiencies of the teachings of Helms, Graboski or Flanagan. Kauffman teaches a blow molding apparatus. However, in contrast to Applicants' claimed process, Kauffman does not teach or suggest a neck and cap assembly that is pre-sealed with a foil. Additionally, Kauffman does not teach or suggest a foil that is sealed to both a cap assembly and a bottle following an induction heat sealing step.

Accordingly, for at least the reasons given above, Applicants submit that claims 14 and 15 are patentable over Helms, Graboski, Flanagan and Kauffman, either alone or in combination.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request allowance of claims 12-17. The Examiner is invited to call Applicants' undersigned attorney to discuss any remaining issues.

Respectfully submitted,

Date: February 10, 2010
Reg. No. 58,343

Tel. No.: (617) 261-3216
Fax No.: (617) 261-3175

/Karen A. Sinclair/
Karen A. Sinclair
Attorney for Applicants
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, Massachusetts 02111-2950